

SEWER COMMISSION MINUTES

October 13, 2010 7:00 PM

Mr. Kane - The special meeting of the Town of North Smithfield Sewer Commission was called to order on Wednesday, October 13, 2010 at 7:07 P.M. at Kendall Dean School.

Roll Call - Mrs. Paul - In attendance was: Mr. DeCelles, Mr. Nordstrom, Mr. Kane, and Mr. Connolly. Mr. McGee was not present. Mr. Carpenter, Acting Superintendent and Mr. Wilcox were also present.

CERTIFICATION OF UNDERSTANDING-CERTIFICATION OF EXTENSIONS FOR 2009 SEWER DISTRICT

Mr. Kane had been notified that all of the extensions that have been granted by motion of recommendation of approval to the town council are in fact within the jurisdiction and final decision of the sewer commission. He has drafted a resolution and request passage.

The following resolution was read as follows:

**“A RESOLUTION CERTIFYING FINAL APPROVAL OF EXTENSIONS
OF TIME TO CONNECT TO THE 2009 SEWER DISTRICT.**

RESOLVED, by the North Smithfield Sewer Commission as follows:

WHEREAS, the North Smithfield Sewer Commission hereby declares

an understanding that the below mentioned properties has been granted extensions of time to connect to the 2009 Sewer District; and

WHEREAS, the properties affected by decisions of the North Smithfield Sewer Commission are 61 Elizabeth Avenue, 383 Victory Highway, 5 Country Way and 93 St. Paul Street; and

WHEREAS, the North Smithfield Sewer Commission conducted individual public hearings for each of the petitions submitted to the Commission for review; and

WHEREAS, the North Smithfield Sewer Commission has reviewed, without bias, the aforementioned petitions and granted them according to Section 8-35.8 (f) of the North Smithfield Sewer Use Ordinance; and

WHEREAS, the North Smithfield Sewer Commission will now notify, in writing, each resident who has been granted an extension by the North Smithfield Sewer Commission of such and of the terms and conditions set forth in Sections 8-35.8 (d), (e), and (f); and

WHEREAS, conditions of acceptance of an extension of time are;

that the Resident has been granted a four year extension of time to connect to the 2009 Sewer District; and

that the Resident understands that by October 19th, 2013, they must have a second inspection of their I.S.D.S. system conducted and submit the required paperwork to the Sewer Administrator's office; and

that failure to submit required paperwork within sixty (60) days after the date of inspection results in failure to comply with the North Smithfield Sewer Use Ordinance and are then subject to a fine of one hundred dollars (\$100.00) per day until they connect; and

that the Resident understands they must purchase a Environment-One Grinder Pump at market cost at the time of their connection to the 2009 Sewer District; and

that the Resident will receive only the manufacture's standard warranty with their grinder pump and that no extended warranty or maintenance will be provided to them; and

that the Resident must pay all applicable permitting fees at the time of their connection to the 2009 Sewer District; and

that the Resident will be issued a two thousand seven hundred and ninety three dollar (\$2,793.00) credit towards their assessment which represents the Town's cost of purchasing their grinder pump.

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WHEREAS, by the legal opinion of the Town Solicitor, the North Smithfield Sewer Commission's actions as to the rendering of these decisions are within the purview of the North Smithfield Sewer Commission and do not required the North Smithfield Town Council's approval for them to take effect; and

WHEREAS, an appeal of a decision of the North Smithfield Sewer Commission shall be directed to the Town Council sitting as the Board of Sewer Appeals.

NOW THEREFORE, BE IT RESOLVED that the North Smithfield Sewer Commission has granted final approval for the aforementioned extensions of time to connect to the 2009 Sewer District, including provision of terms and conditions of approval, with recognition that all residents have accepted those terms as a contingent of approval."

MOTION by Mr. Nordstrom, seconded by Mr. Connolly and voted unanimously on a roll call vote for passage of the Resolution Certifying Final Approval of Extensions of Time To Connect To The 2009 Sewer District.

Mr. Kane stated that all members present will sign the resolution.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously to move up item #5 Kim Hagan, 354 Victory Highway, Sewer Tie-In Deferral.

KIM HAGAN-354 Victory Highway-Sewer Tie-In Deferral

Mr. Wilcox briefed the commission that all the necessary paperwork has been submitted and is complete and is all in order.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles to approve the deferral to a five (5) year connection extension to Ms. Kim Hagan at 354 Victory Highway.

Mr. Kane explained to Ms. Kim Hagan that her assessment and usage fee has been abated for a five (5) year period. Anytime prior to October, 2014, she would have to petition the sewer commission for an additional extension or to be connected at that point in time and he will send her a letter.

Ms. Hagan understands and agreed to the terms that Mr. Kane explained to her. She has made a payment on her assessment and wanted to know if she will receive a rebate.

Mr. Kane informed her that it will be deducted from the \$18,292 if she has a single family home and the payment is on record.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 roll call vote to approve the deferral to a five (5) year connection extension to Ms. Kim Hagan at 354 Victory Highway.

**MARY MCCAFFREY-21 CHAPEL STREET-Request for
Exemption/Waiver**

Mr. Kane noted that this is a continuation from the September 29, special sewer commission meeting. Mr. Robert Larder, Attorney at Law was present. Mr. Larder has spoken to Mrs. McCaffrey along with her caretaker because a written request for an extension was filed by Mrs. McCaffrey, Mr. Kane has requested a withdrawal from that request. Mr. Larder has consulted with Mrs. McCaffrey and she wishes to be excluded from the sewer system based on an inspection from Mark Nyberg and Associates. He did a site inspection of the system and there is no discharge pipe however he is unable to find a tank. The only cover that is on the property is the access cover to the pipe. He can verify that nothing is failing and there is no discharge into the river. The request is an exclusion with terms of acceptance that she understands that in the event that an exclusion is granted, she is solely responsible for the maintenance of her own disposal system in the event that her present system requires improvement or replacement at any time in the future and that she is solely responsible for securing this improvement and replacement of the payment in cost therein and also understand and seek and be granted the right to the municipal sewer system in the future and shall be responsible for all costs associated there with and shall not be granted any other financial benefits presently granted to those who connect to the system at this time. He referred to Section 8-27(b) which allows the sewer commission in their sole discretion to grant a one year extension of time for unusual and extreme hardship and

brought this up to the attention of Mr. Larder and Mrs. McCaffrey and has chosen not to pursue this item. He asked if this would allow her more time to assess and possibly seek the easement she requires. She believes those easements are obtainable.

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Mr. Larder stated that yes, that it is highly unlikely under the circumstances that they would be obtainable.

Mr. Kane stated that she has chosen to seek an exclusion at this time and the attached is the withdrawal of the request for a four (4) year extension.

MOTION by Mr. Nordstrom, seconded by Mr. Connolly to approve the request that 21 Chapel Street be excluded in Phase 1A or 1B of the 2009 sewer district with discussion.

Mr. Nordstrom explained the reasons why she isn't able to connect and referred to the as builts. It appears it isn't very clear and that there wasn't any provision made for that property.

Mr. Connolly noted that she is probably not in the district.

Mr. Nordstrom feels that a motion should be made since she did

receive a letter. He also stated that it removes them from the sewer assessment rolls.

MOTION by Mr. Nordstrom, seconded by Mr. Connolly and voted unanimously on a 4-0 roll call vote to approve the request that 21 Chapel Street be excluded in Phase 1A or 1B of the 2009 sewer district.

Mr. Kane stated he will forward a letter to him and Mrs. McCaffrey.

Mr. Larder thanked the commission and Mr. Wilcox for being very helpful in resolving this matter.

DONNA SAMUELIAN-104 Mendon Road-Request for Exemption/Waiver

Mr. Kane acknowledged that Ms. Samuelian has forwarded further documentation as requested by the commission in the form of three (3) extra bids for the replacement of her cesspool.

Mr. Wilcox noted that also included is a copy of the easement on the property of 59 Fountain Street. She is trying to locate her hook up for utility on the sewer. Also included is the tie-in drawings and the valves in the street. He and Mr. Carpenter went out to double checked to see who was to connect to what valve. And the plan was also submitted on the right of way indicating with the length of right of way to her plat and lot number.

Mr. Kane asked Mr. Wilcox what did they find?

Mr. Wilcox stated that there are three (3) tie-ins on the street and one hook up to one of those tie-ins. They found the property who has the easement owned. They are tied into property on 66 Fountain Street on that side. This leaves two (2) open valves on the easement and are not tied in. There is only one that is used.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles to grant a one (1) year extension for an extreme and unusual hardship in accordance with the sewer use ordinance Section 8-27(b) until they can resolve this with discussion.

Mr. Nordstrom stated that because the property has a cesspool and doesn't have a functioning septic system the sewer commission can not give an extension. She testified that the person who owns the property won't give her the utility easement to be able to run down and connect to the street. Ms. Samuelian understood that the last time they spoke that she testified that she understood that if her cesspool failed that she would have to spend an extensive amount of money to get an upgraded system. But in the mean time she had no ability to connect to the sewer. She doesn't qualify for the extension the way the sewer use ordinance reads but maybe by giving her the one (1) year reprieve and can figure out in the mean time. He asked her if she understands the risk of not connecting.

Ms. Samuelian stated that she really didn't know the risks but the only risk she knows is that everything is a continuation for her. She wants to have closure to this matter and feels why she should keep coming back. She feels that she has to pay for something she has no use of now but might not have it later.

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Mr. Nordstrom explained to Ms. Samuelian that the commission has to abide by the sewer use ordinance.

Ms. Samuelian stated that she has no control over it and it isn't her road and feels that her case isn't like anyone elses.

Mr. Nordstrom stated that they can not exempt her from the sewer district at this time and hopefully within the year they can resolve this issue.

Mr. Kane explained to her that the commission is giving her one (1) year.

All commission members discussed further as it may have been similar to the previous case that was discussed.

Following further discussion the motion and second were both withdrawn.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles to grant an exclusion for the 104 Mendon Road property to be exempt from the Phase 1A and Phase 1B 2009 sewer district project with discussion.

Mr. DeCelles made the point based on the fact that this property doesn't have access to the sewer project. It is basically the same circumstances as the last item that was discussed.

Mr. Kane commented that the only difference between the previous case was that it was represented legally and this case at 104 Mendon Road didn't seek legal assistance.

Mr. Nordstrom commented that the deed is the deed.

Ms. Samuelian didn't agree with hiring a lawyer and says the same thing that she is telling the commission and they would come up with the same decision. She feels that the only difference is that they get paid and she stated that shouldn't have to hire a lawyer if she doesn't have to. She feels that it is out of her hands.

Mr. DeCelles made the point that since everyone is in agreement and understands that it is a cesspool and that it's 'not considered a

properly functioning system that it falls under the jurisdiction of the DEM. And if the DEM came in to enforce that, they would come in and she would be forced to put in a new system and she wouldn't have access to the sewer system.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 roll call vote to grant a exclusion for the 104 Mendon Road property and to be exempt from the Phase 1A and Phase 1B 2009 sewer district project.

Mr. Kane informed Ms. Samuelian that she will receive notification from the Sewer Commission and told her that the motion was changed and that she has been exempt from the district.

MRS. ANNE MURRAY-286 Victory Hwy-Request for Unusual and Extreme Hardship

Mr. Wilcox stated that due to the passing of Mrs. Anne Murray and the request from the family it was brought to his attention and submitted to the sewer commission last week and found out this morning that Mrs. Murray's property without the children being notified had already had a sewer permit in process. The permit came in on September 9, 2010 and was issued and approved on September 17, 2010 and was given back to Allard Construction on September 23, 2010 for the conversation of the property owner to schedule a time to tie in. This was not brought to his attention until he found it. He is requesting that the sewer commission back out of the extension. He has talked

to the children of the property on the probate side and they asked if they could back away from that request and knowing that they must connect by June 30, 2011 and there will be no extension. The family wrote back and thanked him and the commission.

Mr. Kane stated that there wasn't any actual written request for an extension for this property, he had not asked for a withdrawal for that request and that it was just a verbal understanding since there wasn't one to begin with.

MOTION by Mr. Nordstrom, seconded by Mr. Connolly and voted unanimously on an aye vote to table Mrs. Anne Murray, 286 Victory Highway for a request for an unusual and extreme hardship.

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**SCHOOL DEPARTMENT-83 GREENE STREET-Joint Recommendation
to Town Council for Funding &
REQUEST FOR SEWER EXTENSION**

Mr. Kane informed the commission that the first is a joint recommendation to the town council for funding for a capital project and the second is a request contingent of denial of funding from the town council for a sewer extension. Mr. Lindberg, Superintendent of Schools is present along with Mrs. Johannis who is a member of the School Committee. They all met along with Mr. Wilcox prior to the

sewer commission meeting this evening to make sure everyone is on the same page.

Mr. Wilcox, reviewed the status of Kendall Dean School, located at 83 Greene Street, plat 2 lot 36 and explained that he will be receiving a permit on the property for connection that should be in by October 19th, signed by a drainlayer and school department to commit to a tie-in and the pump size is being worked out between Mr. James Geremia, Mr. Carpenter and himself to the correct pump size to get them a financial dollar figure for the school department. The permit will allow them to receive the savings on the extended warranties and the pump costs and the permit fees that they would be saving if submitted afterwards and the school department is aware of that and will wrap everything all up by the October 19th deadline date.

Mr. Kane reviewed the two ways that they could tie in and save money and get it completed this year or the town council could say no and the commission grants an extension to the school department and they have whatever fiscal year within the next three (3) years to obtain funding they would continue to pay the assessment and access fee once it is issued after the 20th.

Mr. Lindberg reviewed the comments that were made by both Mr. Wilcox and Mr. Kane. He stated that he has asked for an extension and work has been submitted and the second request and they are optimistic as to meeting the October 19, 2010 permit submission and

is asking the sewer commission's support going to the Town Council in early November and if they approve the project for funding and the project completion date would be by June 30, 2011.

Mr. Kane asked Mr. Lindberg to put the request in the order as requested by the commission.

Mr. Lindberg proceeded to switch the order of the requests stating that his first recommendation would be for the sewer commission to consider supporting the school department's request of the Town Council in early November to approve the project for funding for completion by June 30, 2011 contingent upon the permit being completed by October 19, 2010.

MOTION by Mr. Nordstrom, seconded by Mr. Connolly to approve the application with discussion.

Mr. Nordstrom asked if Mr. Wilcox ever received clarification from Mr. Geremia on the edu issue?

Mr. Wilcox's response was no and that he has not yet received anything from him.. He follow up with him this morning and Mr. Geremia told him that he would put those scenarios together and send them to him but he has not received them as of yet.

Mr. Kane stated that after speaking with Mr. Geremia this afternoon a

memo will be presented to Mr. Wilcox and himself illustrating three (3) scenarios. The first is to lay out the usage of the Kendall Dean building by student which is 10 gallons per day and figured on 300 students and the maximum would be 3,000 gallons per day. The second scenario is set by square foot times, 12,000 sq. ft. and equals approximately 1,500 gallons per day. The third scenario is equal to 10 office workers approximately equals to 15 gallons per day all by RI DEM regulations would equal to 150 gallons per day. Mr. Geremia is speaking to Mr. Ed Quann currently from F.R. Mahoney to see what best suits the town's needs. They are looking at a dual pump and stated that they want to go with the largest pump but to save money and want to take out one of the pumps, us just one pump and so the second pump doesn't sit there for ten (10) years and be useless if the other one is dead, seal off that chamber and still allow for the 150 gallon holding tank and the 3,000 gallon per day flow of output capacity.

Mr. Nordstrom noted that with a duplex system they both work and they cycle. Both pumps would work and rotate their cycles.

Mr. Wilcox stated that speaking with the E-1 people, that they thought that they could modify the circuitry to run that one pump or being able to add another pump in the future to bring in the circuitry back into motion with both pumps working and alternate.

Mr. Nordstrom made the point about the various advantages and

disadvantages of classifying it as a school and sizing the pump for the future. He stated that it is no longer a school and in order for it to be a school, they would have to go to the town building inspector and change the use at which point that could change the number of edu's.

Because essentially it is being used as office space, it would probably advantages that it remain as office space.

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Mr. Kane believes that it is currently classified as commercial office space.

Mr. Lindberg agrees and as far as the Kendall Dean building ever returning back to a school, it would cost a large amount of money to return to the mandatory fire codes etc.

Mr. Nordstrom stated that it would change the sewer assessment for the building. He stated that it should remain as an office building which keeps the edu's down and lowers the assessment.

Mr. Wilcox stated that it is currently assessed at 2 edu's and 12,472 sq. ft.

Mr. DeCelles questioned why the sewer commission is getting involved. He stated that the ordinance outlines that this building should be connected and feels that is the commission's recommendation. He doesn't see the need why the sewer

commission should be involved.

Mr. Kane replied that it was his decision to get involved and takes responsibility if the commission sees fit not to participate and it would be the commission's decision.

Mr. DeCelles commented on where does the line get drawn.

Mr. Lindberg stated that he doesn't want to create any dissension and doesn't have any problem going forward himself and commented that it was a nice offer by Mr. Kane and any way that they could impress upon municipally and it is a cost savings to do by June 30, 2011 to the taxpayers, because it is basically a municipal building while the school department is using it, they are technically custodians but any substantial improvements, he doesn't know the cost and it usually goes through a capital improvement approval process and can bring it forward himself.

Mr. DeCelles stated that it isn't dissension, he just feels that it is cleaner when the commission isn't involved.

Mr. Kane's opinion is that he doesn't see that it is negatively impacted the commission to be involved.

Because there was further discussion and some confusion over the motion, Mr. Nordstrom withdrew his motion and Mr. Connolly

withdrew his second.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles stated that they endorse and approve the application of Kendall Dean School, to connect to the sewer system by June 30, 2011 with discussion.

Mr. Kane stated that to approve the application is not required because they don't approve applications to connect.

Again, there was confusion over the second motion, Mr. Nordstrom withdrew his motion and Mr. DeCelles withdrew his second.

Mr. Kane stated that the reason he got involved with this was because it saves the town money and they are part of the town and that is what they were told and that it what they are suppose to do and try and find the most cost saving measures possible and this is a cost saving measure.

Mr. Nordstrom stated it is the commission's job to continue to would work with them and show the Town Council that this is good.

Mr. DeCelles feels that there should be an official letter from Mr. James Geremia's office, including the exact cost and how the ordinance is applied and outlining the entire thing.

Mr. Kane stated that it is being done.

MOTION by Mr. DeCelles, seconded by Mr. Connolly and voted unanimously to table the School Department, 83 Green Street, Joint Recommendation to Town Council for Funding.

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MOTION by Mr. Nordstrom, seconded by Mr. DeCelles on the School Department's, request for a sewer extension that in the event if there is no funding allowed to the school committee to connect by June 30, 2011, that a sewer extension be granted to the school department for the property located at 83 Green Street known as "Kendall Dean" and the standard letter would be sent out to the school department informing them of the consequences of those four (4) year extensions and they still have to continue to pay the assessment and include the same language that the extension letter includes as all of the other residents have received with discussion.

Mr. Nordstrom commented that the only point that would be different from any other extension would be if there was no funding from the Town Council that the extension would go into place. So, on the standard letter that is mailed out, that would be the only thing that would be different.

Mr. Kane read all of the conditions of acceptance to Mr. Lindberg for an extension. “That the sewer commission is approving the extension of time contingent that the school department does not receive and secure funding before June 30, 2011 that they have been granted upon that time a four (4) year extension of time to connect to the 2009 sewer district and that they understand that by October 19, 2013 that they must have a second inspection of their system and submit the required paperwork to the sewer administrator’s office, failure to submit this paperwork is a fine of \$100.00 per day within 60 days and that they would have to purchase their own grinder pump at market cost at their time of connection and that they receive only their manufacturer standard warranty with their grinder pump, there is no extended warranty or maintenance will be provided by the town and they must pay all applicable permitting fees at their time of connection to the 2009 sewer district. If an extension takes affect, they will be credited \$2,793.00 towards their assessment which represents the town’s cost to purchasing their grinder pump.”

Mr. Kane asked if Mr. Lindberg understands and acknowledges the conditions.

Mr. Lindberg replied that he does.

Mr. Kane stated that Mr. Lindberg will receive a letter from him.

Mr. Nordstrom requests that the letter be expedited to Mr. Lindberg

so that letter can be included in the package to the Town Council.

Mr. DeCelles commented that a letter carries more weight and says more along with the sewer ordinance which is law to provide to the Town Council.

Mr. Lindberg commented that he appreciates what Mr. Kane is trying to do and thanked him and understands that it is the law and that the ordinance should speak for itself especially the cost analysis.

Mr. Kane stated that a letter will be expedited.

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 roll call vote on the School Department, for the request for a sewer extension that in the event if there is no funding allowed to the school committee to connect by June 30, 2011, that a sewer extension be granted to the school department for the property located at 83 Green Street known as “Kendall Dean” and the standard letter would be sent out to the school department informing them of the consequences of the four (4) year extension and they still have to continue to pay the assessment and include the same language that the extension letter includes the same information as all of the other residents have received extensions.

RECOMMENDATION TO ADMINISTRATION-E.D.U. Determination for Schools (Public and Private)

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 aye vote to move Recommendation to Administration, E.D.U. Determination for Schools Public and Private to the regular October 20, 2010 sewer commission meeting.

RECOMMENDATION TO TOWN COUNCIL-In-Law Apartments and Related E.D.U. Assessment and Concurrent Request for Legal Opinion

MOTION by Mr. Nordstrom, seconded by Mr. DeCelles and voted unanimously on a 4-0 aye vote to move Recommendation to Town Council, In-Law Apartments and Related E.D.U. Assessment and Concurrent Request for Legal Opinion to the regular October 20, 2010 sewer commission meeting.

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BID PACKETS-Discussion and Review-S. Kane

Mr. Kane submitted to the members the completed bid packets and asked the commission members to review and are complete and final and if they are ok, they will be transferred to the finance department and reviewed for accuracy and find a source of funding at which time he will elaborate next week

MOTION by Mr. Kane, seconded by Mr. Nordstrom and voted unanimously on a 4-0 aye vote to table the Bid Packets to the October 20, 2010 regular sewer commission meeting.

ADJOURN

MOTION by Mr. Connolly, seconded by Mr. DeCelles and voted unanimously on a 4-0 aye vote to adjourn the meeting at 8:23 pm. The meeting adjourned at 8:23 pm.

Respectfully Submitted,

Patricia A. Paul

Commission Secretary